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ABSTRACT

This booklet presents information helpful in implementing laws intended to extend full societal participation to individuals with disabilities. Information concerning the Individuals with Disabilities Education Act of 1990 (IDEA) addresses the law's major provisions, provisions for medically fragile children, amendments and modifications, and case law related to least restrictive environment. A discussion of the Americans with Disabilities Act of 1990 reviews major provisions, specific titles, enforcement and remedies, and the impact on schools. Section 504 of the Rehabilitation Act of 1973 is also briefly described, focusing on its impact on schools. The pamphlet concludes that schools and school districts that have a commitment to inclusive education for all children will have no difficulty in complying with the requirements of these three laws. (JDD)

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Implementing the Disabilities Acts: Implications for Educators

Patricia F. First, Joan L. Curcio

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Implementing the Disabilities Acts: Implications for Educators

by
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and
Joan L. Curcio

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Introduction

Countless Americans suffer from one or more physical or mental disabilities, and the number is expected to increase as our society ages. Until recently these individuals often were removed or segregated from the mainstream of society; and despite laws designed to correct this situation, many forms of discrimination still occur, even in our schools.

In this fastback we present information that will help educators to implement the newest laws intended to extend full societal participation to individuals with disabilities. These laws are the Individuals with Disabilities Education Act of 1990 (IDEA) and the Americans with Disabilities Act of 1990 (ADA). We also discuss briefly the Rehabilitation Act of 1973. It is our hope that as educators comply with both the spirit and the letter of these laws, the benefits of our democratic society will increasingly become available to all our children.

The Individuals with Disabilities Education Act of 1990

In October 1990, the Education of All Handicapped Children Act of 1974 was amended by Congress, and its name was changed to the Individuals with Disabilities Education Act (IDEA). The term "handicapped student" was changed to read "child/student/individual with a disability." This change in terminology is significant in that it reflects the desire of individuals with disabilities for the law to indicate that a disability is simply one aspect of a person's total being.

The new amendments 1) added autism and traumatic brain injury to the categories of students eligible for special education and related services, 2) addressed new discretionary programs for transition and special education services and minority outreach, 3) augmented definitions, 4) addressed Native American services and students with attention deficit disorders (ADD), and 5) allowed private citizens to bring suit against states and state and local education agencies.

Major Provisions of IDEA

In enacting IDEA, Congress clearly intended that the rights of persons with disabilities be enumerated in a clear, unequivocal fashion. The major provisions of IDEA are as follows:

Federal Assistance. Federal financial assistance is provided to states that develop an appropriate plan for identifying and educating children with disabilities.

Individual Education Plan. The Individual Education Plan (IEP), which is to be developed for every disabled child, is an integral part of IDEA. The IEP should be developed cooperatively with the child's parents or guardian and the appropriate school officials. It should identify the educational needs of the child and specify the services to be provided to meet those needs.

Procedural Safeguards. The following procedural safeguards are specified by the act to protect the rights of the child with disabilities and his or her parents:

1. Parents have access to all relevant records with respect to the identification, evaluation, and educational placement of their child.
2. Parents have the opportunity to obtain their own independent educational evaluation of the child.
3. Both administrative and judicial review of a placement decision is available.
4. Parents are entitled to an impartial due-process hearing before the state or local education agency if they object to the child's IEP.
5. The decision of a local hearing officer may be appealed to the state education agency.
6. The final administrative decision may be contested in a civil action in state or federal court.

Stay-Put Provision. IDEA has a "stay-put" provision that allows the student to stay in his or her current (usually public) educational placement during the course of review proceedings. If parents choose, they may remove their child to another (private) placement; but they do so at their own financial risk. Reimbursement is possible only after the fact, that is, if the private placement is found to be appropriate and the placement decision of the district is found to be inappropriate.

Students may be placed in private schools at public expense if an appropriate public school placement is unavailable. Such placement, when decided by the district, is at no cost to the parent or guardian.

Least Restrictive Environment. Students with disabilities should be educated in the least restrictive environment (LRE). LRE is a primary consideration for the courts in placement disputes between parents and school districts. Since placement decisions are made on an individual basis, it is difficult for the courts to state what actions are to be taken. However, some general guidelines are available. To be in compliance with this provision, states should establish procedures that ensure that children with disabilities are educated with non-disabled students to the maximum extent possible. Also, removal of children with disabilities from the regular educational setting occurs only when the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily. The phrase "maximum extent possible" conveys that there are no rigid criteria for deciding whether and to what extent a student should be mainstreamed. Case law indicates that the mandate of LRE is secondary to the provision of appropriate services. The interpretation of "maximum extent possible" depends on the individual situation.

One court, for example, has held that public school placements are always less restrictive than private placements, even though the public school placement may mean less contact with non-disabled students. Mainstreaming is seen by the courts as one component of an appropriate education, but the most important factor is the provision of necessary special education services.

There is an obvious tension between these two provisions (mainstreaming and appropriate services for the individual), and IDEA does not answer how this tension is to be resolved. When faced with this problem, school districts should consider the following two-part test used by some courts to determine IDEA compliance.

1. Is a satisfactory education in the regular classroom, with supplementary aids and services, achievable?
2. If the answer to part one is no, has the school mainstreamed the child to the maximum extent possible?

In answering these questions, districts should consider the child's ability to benefit from the regular curriculum, the nature and severity of the disability, the effect the child's presence would have on the functioning of the regular class, the child's overall experience in the mainstream environment, and the amount of exposure the child would have to non-disabled students.

Mainstreaming means serving children with disabilities with support personnel and supplementary services within the regular school program, rather than isolating them in self-contained special classes. The following are examples of placement options:

1. The child remains in the regular classroom all day and receives special instruction from a special education teacher.
2. The child is based in the regular classroom but leaves to receive services in a special education resource room.
3. The child receives the major portion of his or her education in a special education class but joins other students for some activities, usually non-academic ones.
4. The child's disability is so severe that no mainstreaming is attempted.

Medically Fragile Children and Related Services

Medically fragile children are those who are in need of both a medical device to compensate for the loss of a vital body function and substantial, ongoing nursing care to avert death or further disability. Local education agencies (LEAs) are not required to provide medical services, that is, those services normally provided by a licensed physician, except for diagnostic or evaluation purposes.

LEAs often have difficulty differentiating between "related services" required by the IDEA and "medical services," which are excluded under the IDEA. Teachers are concerned that they may be asked to perform services that they are neither trained for nor comfortable with. For example, in one case decided under the Education for All Handicapped Children Act, the Supreme Court held in *Irving Independent School District* v. *Tatro* that clean intermittent catheterization for purposes of urination was a "related service." The school district was required to provide this service for the child during school hours as a supportive educational service, since it was needed if the child was to benefit from the education program. It was clear to the Court that without having catheterization services provided to her, this student could not have attended school. Another element in this case was that medical personnel are not required for the performance of clean intermittent catheterization.

In its decision, the Court established a three-part test for determining which services are "related" and which are "medical." When confronted with such a question, districts should ask:

1. Is the child disabled so as to require special education and related services?
2. Is the service necessary for the child to benefit from special education?
3. Can the service be provided by someone other than a physician?

In cases where services do not fall solidly under either of the two categories (related or medical), the category that more closely resembles the requested services should be used. There is no clear-cut standard for these cases. Also, districts should be aware that if medical personnel are needed, other sources of payment may be available. For example, in one case it was held that a student was entitled to Medicaid payments for private-duty nursing services provided while attending a public school.

Amendments and Modifications to IDEA

The following changes were made to the Education of All Handicapped Children Act with the enactment of the IDEA in 1990:

Attention Deficit Disorder (ADD) was not included as a separate category under IDEA, because students with ADD are eligible for services under the act if their disorder is defined as a chronic or acute health problem resulting in limited alertness. Students diagnosed as ADD and identified for services must be provided with an appropriate IEP. (See fastback 354 *A Primer on Attention Deficit Disorder*, by Beth Fouse and Suzanne Brians.)

Students with autism (defined as a developmental disability that significantly affects verbal and nonverbal communication and social interaction) are now included under IDEA. Also included are children with traumatic brain injury (defined as an open or closed brain injury caused by external force or internal occurrence but not the result of birth trauma or degenerative disease) whose resulting impairments adversely affect educational performance.

The category "underrepresented" was amended to include minority populations, the poor, and individuals with limited English proficiency.

Bureau of Indian Affairs (BIA) schools and tribally controlled schools are included under IDEA. Services are available for Native Americans on reservations even if they are not BIA funded.

Therapeutic recreation, social work services, and rehabilitation counseling all are included as related services under IDEA. Some courts resist requiring schools to pay for essentially psychotherapeutic services; however, courts are not always conservative in what they consider to be related services.

Also included under related services are transition services. These are services necessary to help students with disabilities make the transition from school to post-school settings. They include preparation for independent living, full participation in community programs, competitive employment, and use of assistive technology devices and

services. Assistive technology devices can be obtained from the statewide systems created under the Technology Related Assistance for Individuals Act of 1988 or from the LEA.

A statement regarding these services must be included in a student's IEP beginning no later than the student's 16th birthday (or earlier when appropriate). The statement should include a list of the transition services the student will need prior to leaving school. If the agency assigned to provide the services fails to do so, the LEA must reconvene the IEP team to identify alternative strategies for meeting transition objectives.

IDEA also includes early childhood programs and services. Such services should focus on the transition of infants and toddlers with disabilities into preschool programs and then from preschool into elementary school. These programs should promote the use of assistive technology and, through early intervention, address the needs of young children exposed prenatally to maternal substance abuse. IDEA stresses the importance of education for parents of young children with disabilities and recommends that adults with disabilities be employed to work in early childhood programs because they can serve as positive role models.

Case Law Related to Least Restrictive Environment

For the courts, the right of a free and appropriate education for students with disabilities is always paramount. And while the presumption is in favor of mainstreaming, it must be weighed against the importance of providing an appropriate education to students with disabilities. It is preferable to educate students in the school they would normally attend if not disabled. However, placing students in a special education program in a centralized location, rather than in their neighborhood school, does not violate IDEA. In fact, LRE is not required when the specialized instruction needed by a student would create considerable disruption in the regular class and be of decreased educational benefit to the student.

Due Weight Standard. Even in districts that go to great lengths to comply with the LRE provisions, there still will be challenges and appeals. When this happens, the courts are required to give "due weight" (consideration to an appropriate degree) to the decisions of the hearing officers. Since these officers are often district-level administrators, it is important to note the way that courts look at these initial decisions.

Typically, the courts will 1) examine the way the hearing officer arrived at the administrative decision and 2) consider the decision to be correct based on the evidence presented. In other words, the decision will prevail until contradicted and overcome by other evidence. Attending to the correctness of the process is very important for the district. Each step in a procedure and the reasons for each decision must be thoroughly documented. If the court finds the hearing officer in error, the officer must explain the decision.

Legal Remedies. Before filing a suit, a party should first exhaust administrative remedies. Courts are concerned with factual accuracy and administrative efficiency but are equally concerned with local school autonomy and the conservation of judicial resources. The exhaustion-of-remedies rule is meant to keep cases from coming to court if they can be resolved administratively.

Students or parents who prevail in a suit under IDEA have the right to recover attorney's fees. Although recovery is possible under any or all of these statutes, the courts discourage the filing of multiple-claim suits and tend to limit damages under Section 504 if the suit is essentially based on IDEA. (Section 504 provisions are discussed in the next chapter.) Parents seeking recovery of attorney's fees are required to claim them and to inform the school district of such a claim. If a settlement is reached, the fees recovered must be for work performed prior to the settlement.

Tuition for a private school placement also may be recovered if a parent can show that the LEA placement was not appropriate. The request for tuition recovery may be done even if the private school

placement was made without exhausting administrative remedies under IDEA. The LEA must be notified of the placement and given an opportunity to correct or replace its programs or placements. The parents must then file a due-process hearing or suit seeking reimbursement annually. If the parents prove that the private program is appropriate and the LEA program is not, they may recover damages in the form of reimbursement for tuition and other educational expenses.

School Districts' Rights Under IDEA. Districts do have certain recourses for limiting offensive parental conduct in IDEA cases. Administrators should keep in mind that:

1. Parents' rights are not absolute.
2. Courts may reduce the amount of attorney's fees that parents may recover if the parents unreasonably prolong the resolution of the controversy.
3. Parents who show a "clearly vexatious" posture may be required to pay attorney's fees to the school district.
4. Defendant education agencies may seek court sanctions against parents or their attorney if the case is found to be devoid of merit or involves harassment or unreasonable delay.

Americans with Disabilities Act of 1990

Responding to mounting evidence that Americans with disabilities face an inordinate number of inequities, former President Reagan created the National Council on Disabilities to study the problem and make recommendations to Congress. After more than three years of study and deliberation, the council wrote its report and sent its recommendations to Congress in 1988. The report became what is known as the Americans with Disabilities Act (ADA), the final version of which was approved on 13 July 1990, when former President Bush signed it into law.

The intent of ADA is: 1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; 2) to provide clear, strong, consistent, enforceable standards for addressing discrimination against individuals with disabilities; 3) to ensure that the federal government plays a central role in enforcing the standards established in the act; and 4) to invoke congressional authority, including the power to enforce the Fourteenth Amendment and to regulate commerce, in order to address the major areas of discrimination faced daily by individuals with disabilities.

ADA derives its substance from Section 504 of the Rehabilitation Act of 1973, but its procedure is based on Title VII of the Civil Rights Act of 1964.

Following are definitions of some of the terminology used in ADA, which will assist educators in interpreting and implementing the act.

A "qualified individual with a disability" is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the job that the individual holds or desires.

A "reasonable accommodation" means making existing facilities used by employees readily accessible to and usable by individuals with disabilities. Some examples of reasonable accommodations are job restructuring; part-time or modified work schedules; reassignments to vacant positions; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; and the provision of qualified readers or interpreters.

"Undue hardship" means a significant burden on or difficulty for the employer for the following items, taken alone or in combination: nature and cost of accommodation; overall financial resources of the facility or facilities involved; number of persons employed at the facility; effect on expenses and resources or impact on the operation of the facility; the overall financial resources of the employer; the size of the business with respect to the number of its employees; the number, type, and location of its facilities; and the type of operation.

"Discrimination" means denying participation in programs and operations, denying participation of equal benefit, offering only separate benefits, and not offering programs and operations in integrated settings.

"Alternative methods of service" for non-accessible public accommodations are considered readily achievable if they can be carried out without much difficulty or expense. Factors to be considered include the nature and cost of the action required and the overall financial resources and size of the facility and the organization.

Major Provisions of ADA

ADA is very broad legislation designed to protect the rights of all disabled persons in a broad range of situations. These include private sector employment, availability of public services and services

provided by state and local governments, access to public accommodations (theaters, hotels, restaurants, shopping centers, and grocery stores), public and private transportation services, and telecommunications relay services for the hearing impaired. The following persons and circumstances are covered under ADA:

- An individual with disabilities is a person who has, has a history of having, or is regarded as having, an impairment that significantly limits one or more of major life functions.
- ADA prohibits discrimination against an individual who has successfully completed a supervised drug rehabilitation program and is no longer using illegal drugs.
- ADA allows testing for illegal drugs but prohibits discrimination against users of illegal drugs if they are otherwise entitled to health services or other services related to drug rehabilitation.
- ADA covers persons with AIDS, but persons with a contagious disease or infection may be excluded or denied a job or benefit if there exists a significant risk of transmitting the infection to others and if reasonable accommodations cannot eliminate such risk.
- ADA protects persons who try to claim these rights, as well as those who try to enforce them, from retaliation or intimidation.
- Children diagnosed as attention deficit disorder (ADD) must be found to have one or more specified physical or mental impairments that require special education and related services in order to be eligible. Services must be designed to meet their unique needs in view of the diagnosis of ADD. Although ADD is not specifically listed as a protected category, it is protected under other categories.

Individuals and conditions not protected under ADA include homosexuality, bisexuality, transvestism, pedophilia, transsexualism, exhibitionism, voyeurism, gender identity disorders or other sexual behavior disorders, compulsive gambling, kleptomania, pyromania,

and psychoactive substance use disorders resulting from current illegal use of drugs. These conditions are not considered impairments and are not disabilities under ADA.

Each state is responsible for setting up procedures for locating, identifying, and evaluating all children who have or are suspected of having a disability. This "child find" responsibility applies to children from birth to age 21. Evaluations of potential recipients of special education and related services should be conducted promptly. It is up to individuals to see that ADA is enforced. There are no funds for federal investigation of compliance.

Specific Titles Under ADA

Title I – Employment. Discrimination in employment of persons with disabilities is prohibited under ADA. Covered employment practices include application procedures, hiring, advancement, discharge, compensation, job training, and other conditions of employment. Title I does not apply to religious organizations and small businesses (fewer than 25 employees until 1994 and fewer than 15 after 1994). It is permissible under ADA for religious organizations to give preference in employment to members of a particular sect and for such organizations to require all applicants and employees to conform to the organization's religious tenets.

Individuals in school districts who are involved in hiring should be aware of their duties and responsibilities under ADA. Job descriptions and employment testing should be reviewed to ensure that they reflect essential job functions. In addition, inquiries regarding a person's physical or mental disabilities should be removed from application forms; and medical examinations, where legal, should be collected and maintained in a file separate from the applicant file and should be confidential. A formal grievance procedure should be adopted and published, and at least one employee should be designated to coordinate these efforts. This employee's name, office address, and telephone number should be made available to all employees.

Title II – Public Services. Discrimination is prohibited in programs, activities, and services provided by state and local governments and their instrumentalities regardless of whether they receive federal funds. Private clubs and religious organizations are exempt.

School districts must furnish appropriate aids so that individuals with disabilities have equal opportunities to participate in available programs and services. Districts must give primary consideration to requests made by the individual with disabilities, and they must ensure that individuals with impaired hearing or vision receive pertinent information about available programs and services.

Title III – Public Accommodations and Services Operated by Public Entities. Discrimination is prohibited in public accommodations and services, including school bus transportation of children and school personnel. Fixed-route transportation systems, which include school bus routes, should provide service to individuals with disabilities (including wheelchair users) that is comparable to the service provided to individuals without disabilities.

Reasonable changes in policies, practices, and procedures must be made to avoid discrimination. This includes providing auxiliary aids and services to vision- and hearing-impaired individuals and removing physical barriers. If barriers cannot be removed, alternative methods of providing services must be available, if they can be provided reasonably. All new construction and alterations must be handicap-accessible. Special care should be taken when considering alterations that could affect access to any area containing primary function facilities, such as restrooms, telephones, and water fountains. Private clubs and religious organizations are exempt.

Schools should post directions to accessible facilities at all inaccessible entrances and use the international accessibility symbol at all appropriate entrances. If structural changes in a building are needed, schools should have a plan that takes into account the access needs of persons with disabilities during such changes. Elevators are not required in schools that have less than three floors or less than 3,000 square feet per floor.

Title IV – Telecommunications. The ADA amends the Telecommunications Act of 1934 by adding a section that authorizes the Federal Communications Commission to establish minimum standards for services for hearing- and speech-impaired individuals. All telecommunications services must offer relay services for hearing- and speech-impaired individuals and must provide closed-captioning of public service announcements.

Schools must ensure that communications with individuals with disabilities are as effective as communications with non-disabled individuals.

Title V – Miscellaneous Provisions. The ADA replaces the word "handicapped" with "disabled," and the word "qualified" with the phrase "otherwise qualified." It also allows complainants to claim discrimination "because of" the disability as opposed to "solely by reason of the handicap." Additionally, the ADA makes no requirement that the program or entity in question must have received federal funds.

ADA does not invalidate or limit the remedies, rights, and procedures of any federal law or the laws of any state or political subdivision that provide greater or equal protection for the rights of individuals with disabilities than are afforded by ADA. Nothing in ADA should be construed to apply a lesser standard than Title V of the Rehabilitation Act of 1973. Nothing in ADA requires an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit. And nothing in ADA precludes the prohibition or restriction of smoking in areas covered by Titles I, II, or III.

School districts are required to have completed a self-evaluation for compliance with ADA. The evaluation is limited to those policies and practices not included in any self-evaluation conducted pursuant to Section 504. An opportunity for participation must be made available for all interested persons, disabled and non-disabled. The self-evaluation file, consisting of a list of all interested persons who participated, a description of areas examined and problems identified, and a description of any modifications made, must be kept for three years following the conclusion of the evaluation.

Enforcement and Remedies Under ADA

When disputes arise over compliance with ADA, resolution of those disputes by means other than court action are encouraged but not required by ADA. For example, many disputes can be resolved through an impartial hearing officer.

Employment complaints may be filed with the Equal Employment Opportunity Commission. Appeals may be taken to court and remedies may include back pay and court orders to stop discrimination.

Public services complaints may be filed with the appropriate federal agencies designated by the U.S. Attorney General, or complainants may bring private lawsuits. Remedies include recovery of actual damages and court orders prohibiting further discrimination.

Regarding public accommodations, individuals may seek court orders prohibiting discrimination, but monetary damages may not be obtained. Complaints may be filed with the U.S. Attorney General, who may file a lawsuit to stop discrimination and to obtain monetary damages and penalties for the individuals who have been discriminated against.

What Will Be the Impact of ADA on Schools?

Implementing ADA expands the role of the school by preparing students with disabilities to take full advantage of new employment opportunities, to participate more fully in all the programs offered by the school, to enjoy greater independence through use of public transportation, and to learn more effectively through use of telecommunication systems.

Although many of the provisions of ADA were covered previously under the Education of All Handicapped Children Act of 1974 and Section 504 of the Rehabilitation Act of 1973, ADA will have a direct impact on the operation and administration of schools through Title I (employment) and Title II (public accommodations and services). Under Title I, employment decisions made by schools may

not discriminate against a current employee or applicant if that person is a "qualified individual with a disability" who can perform the essential functions of the job with reasonable accommodation. Title I became effective for school districts with more than 25 employees on 26 July 1992.

Under Title II, schools must operate programs and services that are readily accessible to and usable by individuals with disabilities. This requires making reasonable accommodations. However, it is not the intent of the act to cause school districts to make fundamental alterations in programs and services. Also, the programs and services must be provided in an integrated setting, and eligibility standards or rules that deny disabled individuals access to programs and services must be eliminated. In disciplining children with disabilities who use illegal drugs or alcohol, school districts may use their regular disciplinary procedures that are applicable to all students.

It is not the intent of ADA to place undue hardships on employers or on existing programs and services. Hardship exemptions are available for specific situations. For instance, school districts are not required to retrofit all existing facilities. Modifications of equipment, reassignment of services to accessible buildings, provision of aids, and installation of elevators or chair lifts are all acceptable methods of achieving accessibility. School officials are cautioned, however, that physically carrying an individual with a disability is not considered an acceptable method of accommodation.

Where to Go for Help or Additional Information

The Job Accommodation Network (1-800-526-7234) is a valuable resource for schools trying to make reasonable accommodations without excessive costs. If demands are made for accommodations or inclusion of conditions that administrators believe are unreasonable, clarification of the law's requirements may be obtained through the Office of the U.S. Attorney General at (202) 514-0301, or the Equal

Employment Opportunity Commission at (202) 663-4903 or 1-800-USA-EEOC.

The ADA Watch Hotline provides information to those trying to comply with the law and works to identify those who refuse. Barriers encountered in public places and other problems or concerns may be reported to them at 1-800-875-7814.

The Rehabilitation Act: Recent Interpretations

The section of the Rehabilitation Act of most interest to school administrators is Section 504, which prohibits discrimination against persons with disabilities (students and staff) by school districts receiving federal funds. The directive applies to all school programs and activities regardless of whether the program in question is a direct recipient of such funding.

Section 504 requires that all students be provided a free and appropriate public education and requires LEAs to provide regular and special education and related aids and services to meet the individual needs of each qualified handicapped child. It further requires that otherwise qualified handicapped individuals not be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any federally funded program or activity solely by reason of handicap. This means that having a handicap is not a permissible reason for assuming that an individual cannot function in a particular program. Decisions about eligibility to participate must be made individually, based on actual abilities.

To make a claim under Section 504, a plaintiff must prove that he or she is handicapped, is otherwise qualified, and has been excluded solely by reason of the handicap, and that the relevant program is receiving federal funds.

Section 504 defines handicapped students as those having any physical or mental impairment that substantially limits one or more major

life activities (including learning). All handicapped students are protected regardless of whether they qualify for IDEA services or whether they require special education.

Under Section 504, an evaluation is required for each student who may need special accommodations or related services. If the evaluation determines that a student is handicapped, a plan for implementation and delivery of all needed services must be developed.

School districts should keep in mind the following:

1. The evaluation must be sufficient to assess accurately and completely the nature and extent of the handicap and the recommended services.
2. The determination of what services are needed must be made by a group of persons knowledgeable about the student.
3. Decisions about eligibility for services and what services are to be provided should be documented, placed in the student's file, and reviewed periodically.
4. Parents must be notified of any action affecting the identification, evaluation, or placement of their child. They are entitled to a hearing if they disagree with decisions made by the district.

Impact of Section 504 on Schools

Compliance with Section 504 is the responsibility of building administrators and the superintendent, who must see that it is implemented properly within their district. Every public school in the nation is required to identify, evaluate, and provide appropriate services and procedural safeguards for handicapped students, including students diagnosed as ADD, if the disorder "substantially limits a major life activity." However, schools are not required to make substantial modifications in programs to allow disabled persons to participate.

A school district's policy should include the following minimum provisions:

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- an affirmative statement that the district does not discriminate on the basis of handicap;
- reference to Section 504 of the Rehabilitation Act;
- reference to a referral/evaluation/placement process for students suspected of being handicapped under Section 504.

Conclusion

Schools and districts that have a commitment to inclusive education for all children will have no difficulty in complying with the requirements of IDEA, ADA, and the Rehabilitation Act. In our experience, we often see a relationship between a school's commitment to inclusion and the broader issue of school reform. Schools practicing inclusion often are engaged in other positive reform efforts. Such schools are doing all they can to educate and prepare each child for a happy and meaningful life. It is our hope that the overview of the disabilities laws provided in this fastback helps more schools carry out the inclusive spirit embodied in those statutes.

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